(1) Supreme Court, U.S.
FILED

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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Donald P. Parks - PETITIONER

VS.

United States of America et al. - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court Of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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16 pp

QUESTION PRESENTED

Do citizens, when acting pro se, have a fundamental right to bring before the Courts suits to protect their rights under Amendments I to X of the Constitutional?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of the petition is as follows:

Denise Dytrych
County Attorney, Palm Beach County
P.O. Box 1989
West Palm Beach, FL. 33401

John Ashcroft
U.S. Attorney General, Department of Justice
10th and Constitution Ave N.E.
Washington DC 20530

Bob Butterworth
Attorney General, State of Florida
PL 01 Capitol
Tallahassee, FL. 32399

George P. Roberts, Jr
Roberts & Reynolds, P.A.
470 Columbia Drive
Suite 101C
West Palm Beach, FL 33409
Representing:
Boynton Beach City Government and employees:
Scott Blaise (Code Enforcement Unit Supervisor)
Marshall Gage (Chief of Police)

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgments below.

OPINIONS BELOW

The opinion of the United States Court of Appeals on Petition(s) For Rehearing and Petition(s) for Rehearing En Banc. Appears at Appendix A

The opinion of the United States Court of Appeals for appeal No. 00-14026. Appears at Appendix B.

JURISDICTION

The dates on which the United States District Court and the Court of Appeals decided my cases were:

Original case: No. 00-8340 CV-WJZ.....July 12, 2000

US Court of Appeals: No. 00-14026.....March 8, 2001

U S Court of Appeals, Petition for rehearing: May 3, 2001

The jurisdiction of this Court is invoked under 28 U.S.C @ 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitution of the United States of America as noted in each section of this petition.

STATEMENT OF THE CASE

I. The Constitution of the United States of America was designed to eliminate oppression of the citizens by the government(s). Over the years it has been modified to provide the benefits of freedom to all Americans through the elimination of slavery.

Unfortunately, a new form of slavery has developed. Citizens today are virtually slaves to the very complex legal system that has evolved. First, the citizens are faced with an impossible volume of law passed by the local, state, and federal governments. Second, this volume of law is very complex. Third, this volume of law is not conveniently accessible.

Finally, this complex legal system in the United States has effectively destroyed the Constitutional rights of a large majority of American citizens because no Constitutional right exists if it cannot be defended by the ordinary citizen in a court of law.

II. The specific Constitutional right that the petitioner is trying to defend is the right to a trial by jury guaranteed under Article VII. If the petitioner had been able to pursue this case through the discovery process he would have been able to prove that:

A. On March 19, 1997 the petitioner was accused by Mr. Scott Blasie (Code Enforcement Unit Supervisor) of being in violation of a Boynton Beach city ordinance that prohibited any areas of greater then 15 square feet in a yard from not being covered with sod (or other approved materials) before the Boynton Beach Code Enforcement Board. Mr. Blasie only estimated that there was an area of greater then 15 square feet; he did not present any physical proof such as photographs or measurements.

B. Also testifying was one of the code enforcement inspectors who was supervised by Mr. Blasie and who had been present when Mr. Blasie testified. He backed up his boss (as if he could do anything else under the circumstances!).

C. Since the petitioner was outnumbered 2 to 1 the Code Enforcement Board went along with the Code Inspectors and started fining the petitioner 25 dollars a day retroactive back to February 1, 1997.

D. The petitioner filed suit in the United States District Court, Southern District of Florida, on April 1, 1997. On April 3, 1997 the case was dismissed. On May 1, 1997 the petitioner filed an appeal.

E. On April 11, 1997 a Order Imposing Penalties/Lien was filed by Mr. Blasie in the Municipal Court.

F. On May 2, 1997 the city re-inspected the petitioners' property and found the property in compliance with city code. (Since the city Code Inspectors had not provided any evidence as to where the estimated un-sodded area was the petitioner had not (and could not) do any thing to fix the alleged problem. At this time the petitioner was given 30 days to in which he could appeal his case back to the Code Enforcement Board (at a cost of $200) to possibly get a reduced fine. Since the petitioner was already involved with an appeal of the case that had been filed on April 1, 1997 in the Federal Court (where he could get a jury trial) he did not take this offer.

The petitioner stated, in this case being appealed, that the re-inspection validated his original claim that his property was in compliance with the city code.

G. The Order Imposing Penalties/Lien was not modified based on the May 2, 1997 inspection. It appears that the petitioner now owes the city over $39,000 with the fine going up an additional $700 to $775 per month (the petitioners' mortgage payments are $833 per month).

H. After making a number of technical errors in his original case and exhausting all of his appeals, up to and including the U.S. Supreme Court, the petitioner filed this second case which is now the subject of this appeal.

I. Additional notes.

1. Fines against home owners are no longer administered by the Code Enforcement Board but are instead filed as citations in the local Municipal Court where the home owner can get a jury trial.

2. One, or more, of the members of the Code Enforcement Board had a significant financial interest in a business that sold lawn-sod in the South Boynton Beach and Delray Beach area.

3. Since January, 2001 Palm Beach County has been under a sever drought with the watering of lawns restricted to from 4 to 8 AM 2 days a week. Lake Okeechobee, the primary surface water resource for South Florida, is currently at an all time low level. Is enforcing ordinances that deal with lawns when there is not adequate water supplies a form of cruel and unusual punishment?

REASONS FOR GRANTING THE PETITION

Therefore, the petitioner sets forth the following reason for granting the petition:

The Constitution of the United States of America was amended by Articles I through X to specifically guarantee the rights of each individual citizen. Failure to allow the petitioner to assert his rights sets at naught this Constitution.

PROPOSED RELIEF

Since neither the District Court nor the Eleventh Circuit Court of Appeals have heard this case the petitioner does hereby appeal to this Court to send this case back to the district court for the trial by jury guaranteed by the Constitution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Donald P. Parks

Donald P. Parks
July, 20, 2001

Appendix A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 00-14026

Filed May 3, 2001

Donald P. Parks
Plaintiff - Appellant

versus

UNITED STATES OF AMERICA,
FLORIDA STATE GOVERNMENT,
BOYNTON BEACH CITY GOVERNMENT,
SCOTT BLASIE, Code Enforcement Unit Supervisor,
MARSHALL GAGE, Chief of Police
Defendants - Appellees.

On Appeal from the United States District Court
for the Southern District of Florida

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

Before: ANDERSON, Chief Judge, DUBINA and BLACK, Circuit Judges

PER CURIUM:

The Petition(s) for Rehearing are DENIED and no member of this panel nor other Judge in regular active service on the Court having requested that the Court be

polled on rehearing en banc (Rule 35), Federal Rules of Appellant Procedure; Eleventh Circuit Rule 35-5), the Petition(s) for Rehearing En Banc are DENIED.

ENTERED FOR THE COURT;

s/ Susan Black
UNITED STATES CIRCUIT JUDGE ORD-42

Appendix B

(DO NOT PUBLISH)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 00-14026
Non-Argument Calendar

Filed March 8, 2001
D.C. Docket No. 00-08340-CV-WJZ

DONALD P. PARKS,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,
FLORIDA STATE GOVERNMENT,
et al.,

Defendants-Appellees,

Appeal from the United States District Court for the
Southern District of Florida

(March 8, 2001)

Before ANDERSON, Chief Judge, DUBINA and BLACK, Circuit Judges,

PER CURIUM:

Appellant Donald P. Parks appeals from the district court order dismissing his *pro se* complaint for failure to state a claim for relief, pursuant to Fed. R. Civ. P. 12(b)(6). On appeal, Appellant first reiterates the core allegations raised in his complaint--that citizens have a fundamental right under the Ninth Amendment "to have understandable laws and convenient access to those laws," and that the Government has an affirmative duty to provide the public with free access to a computerized legal database. Addressing the district court's order dismissing his complaint, Appellant argues that the court erred by (1) finding that his Ninth Amendment claim must be brought under 42 U.S.C. & 1983 and not under the Constitution alone; (2) finding that he had waived his right to file an amended complaint by immediately appealing the district court's prior order dismissing his original complaint; and (3) granting defendants' Fed. R. Civ. P. 12(b)(6) motions to dismiss before any facts could be established through the discovery process.

We review de novo a district court's dismissal of a complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim for relief, accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff. *Kyle K. v. Chapman*, 208 F.3d 940,942 (11th Cir. 2000).

The district court correctly found that *res judicata* precluded Parks' claim that the Ninth Amendment created a fundamental right to receive unlimited access to an electronic legal research database free-of-charge. The district court did not err in dismissing the complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim for relief.

AFFIRMED.